

22ND JUDICIAL DISTRICT COURT FOR THE PARISH OF ST. TAMMANY

STATE OF LOUISIANA

NO: 2015-13154

DIVISION: A

STATE OF LOUISIANA-DIVISION OF ADMINISTRATION,
OFFICE OF COMMUNITY DEVELOPMENT,
DISASTER RECOVERY UNIT –
HAZARD MITIGATION GRANT PROGRAM

FILED

VS.

AUG 0 3 2015

ELLISHA BROWN POWELL

MALISE PRIETO - CLERK
Deputy Stabilic Dispulsion

PETITION FOR DECLARATORY JUDGMENT AND FOR JUDGMENT TO RECOVER HAZARD MITIGATION GRANT PROGRAM FUNDS

NOW INTO COURT, through undersigned counsel, comes Petitioner, the State of Louisiana, Office of Community Development, Disaster Recovery Unit - Hazard Mitigation Grant Program (hereinafter "HMGP"), which respectfully files this Petition for Declaratory Judgment and for Judgment to Recover Hazard Mitigation Grant Program Funds. In support, HMGP respectfully represents:

1.

The Defendant in this case is Ellisha Brown Powell, a major domiciliary of St. Tammany Parish, who voluntarily participated in HMGP to mitigate her home after Hurricane Katrina.

2.

HMGP is a mitigation program funded by FEMA and is administered by the State of Louisiana, the grantee. HMGP assists homeowners whose homes were damaged as a result of Hurricanes Katrina and Rita. It also helps homeowners in coastal Louisiana protect their homes from damage, which may occur in future natural disasters, by elevating their homes, reconstructing safer structures, or installing individual mitigation measures. The State of Louisiana serves as the funding vehicle by which FEMA funds are awarded to eligible homeowners.

3.

Defendant executed a Voluntary Participation Agreement (hereinafter "VPA") on April 5, 2010 to participate in HMGP and to receive an HMGP grant. Defendant also agreed to comply with all HMGP guidelines, which includes using HMGP funds for their intended purpose. *Exhibit A*.

FEMA Grant Funds in the amount of \$16,894.50 were paid to Defendant by HMGP on or about July 22, 2010 for the specific purpose of Elevation Measures (hereinafter "Elevation") at her home located at 2628 Washington Avenue, Slidell, LA 70458. *Exhibit B*.

5.

Photographs dated March 16, 2015 show that although the FEMA Grant Funds were received, Defendant's home was not mitigated. *Exhibit C (in globo)*.

6.

Two (2) separate collection letters were mailed to Defendant at 2628 Washington Avenue, Slidell, LA 70458, which was the address submitted by her when she applied for the HMGP grant. The first letter dated March 21 2014 informed Defendant that the FEMA Grant Funds had to be returned to the State of Louisiana. *Exhibit D (in globo)*.

7.

The second letter dated April 13, 2015 was sent by Certified Mail 7014 0510 0001 1416 8225. Said letter was delivered on April 14, 2015 and the Return Receipt was signed. *Exhibit E* (in globo)

8.

Defendant has failed to respond to the letters and has failed to return the funds to the State.

9.

Defendant's failure to return the FEMA Grant Funds has resulted in Defendant owing to HMGP the FEMA Grant Funds, which must be recovered by HMGP, the State program charged with distributing FEMA funds for mitigation projects.

10.

HMGP must account to FEMA for all funds issued to homeowners. Failure of HMGP to recover the FEMA Grant Funds from Defendant will result in reimbursement to FEMA being required by the State of Louisiana.

11.

HMGP requests that the debt of \$16,894.50, owed by Ellisha Brown Powell to HMGP, be recognized and that judgment in favor of HMGP be granted, directing Defendant to return and pay the FEMA Grant Funds to the State, in full.

ALL PREMISES CONSIDERED, WHEREFORE, HMGP PRAYS:

- a. That this Honorable Court declare that Defendant, Ellisha Brown Powell, is non-compliant with the Voluntary Participation Agreement signed by her;
- b. That this Honorable Court declare that Defendant, Ellisha Brown Powell, is indebted to HMGP in the amount of \$16,894.50 because of her failure to mitigate her home according to her agreement to abide by HMGP guidelines, including using HMGP funds for their intended purpose;
- c. That Defendant, Ellisha Brown Powell, be ordered to return the \$16,894.50 HMGP grant to HMGP, in full;
- d. That there be judgment rendered herein in favor of HMGP and against Defendant, Ellisha Brown Powell, in the full sum of \$16,894.50;
- e. That Defendant, Ellisha Brown Powell, be assessed all costs and fees associated with this matter; and
- f. That the Court grant such other relief as is just and proper.

Respectfully submitted:

FOR HMGP:

La Koshia R. Roberts Bar Roll No. 26715

State of Louisiana, through its Division of Administration 2021 Lakeshore Drive, Suite 100 New Orleans, Louisiana 70122

Telephone: (504) 284-4022 Facsimile: (504) 284-4091

Email: LaKoshia.Roberts@la.gov

T. Randolph Richardson (Special Counsel)

Bar Roll No. 11245

Law Office of T. Randolph Richardson

1010 Common Street, Suite 3000

New Orleans, LA 70112 Phone: 504-212-4163 Fax: 504-581-7083

Email: trichar994@aol.com

PLEASE SERVE:

ELLISHA BROWN POWELL 2628 WASHINGTON AVENUE SLIDELL, LA 70458

PUBLIC ENTITY/FEE EXEMPT

(La.R.S. 13:4521 and 13:5112)

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STATE OF LOUISIANA

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AUG 0 3 2015

MALISE PRIETO - CLERK
Deputy Salar Frontan

VERIFICATION

CONSIDERING THE FOREGOING PETITION FOR RECOVERY OF HAZARD MITIGATION GRANT PROGRAM FUNDS:

I, CRAIG P. TAFFARO, JR., Director of the State of Louisiana's Hazard Mitigation Grant Program, declare under penalty of perjury that the representations made in the foregoing Petition are true and correct to the best of my knowledge, belief and understanding.

THUS DONE ON THIS 30 DAY OF July 2015 IN, NEW ORLEANS, LOUISIANA.

Craig P. Taffaro, Jr.

La Koshia Reconda Roberts Notary Public

Bar Roll No. 26715

My Commission expires at death.

Office of Community Development Disaster Recovery Unit (OCD-DRU) HAZARD MITIGATION GRANT PROGRAM (HMGP)

VOLUNTARY PARTICIPATION AGREEMENT (VPA)

Complete and return this form by mail to: OCD-DRU HMGP P. O. Box 1089 Hammond, LA 70404-1089

APR 0 9 2010

SECTION 1: MITIGATION ELECTION (check one)	
	2015-13154
I/We am/are NOT interested in participating in the OCD-DRU Hazard Mitigation Grant	Program (HMGP).
I/We have sold the home that was damaged during the storm and therefore will not be	oe eligible to participate in the program.
IF YOU CHECKED EITHER OF THE ABOVE: SIGN BELOW AND RETURN THE	S FORM, OTHERWISE CONTINUE.
Applicant or Co-Applicant NAME Applicant or Co-Applicant SIGNATURE	AND DESCRIPTION OF THE PERSON
	AUG 0 8 2015
Applicant or Co-Applicant NAME Applicant or Co-applicant SIGNATURE	Date
Home Phone: () Cell Phone: ()	MALISE PRIETO-CLERY Deputy S/Addie Hord
Are you signing as an agent with Power of Attorney (POA) for an applicant? YES of Attorney:	NO If signing as agent with Power
Agent NAME (person with POA) Agent SIGNATURE	Date
WI/WE AM/ARE INTERESTED IN RECEIVING AN OCD-DRU HMGP AWARD. IF	YOU CHECK THIS BOY YOU NEFD TO
SECTION 2: I AM INTERESTED IN PARTICIPATING IN THE FOLLOWING PRO	OGRAM(S): Individual Mitigation Measures (IMM)
Pilot Reconstruction Elevation	Individual Mitigation Measures (IMM)
Pilot Reconstruction Elevation	at most closely fits your situation) me to meet the latest elevation standards in on activity of my home to meet the latest



For official use only.

EXHIBIT

Page 1

A homeowner must meet ALL of the following criteria to be considered for the OCD-DRU HMGP Award:

- a. Applicant is eligible for Road Home Program benefits as part of the Homeowner Assistance Program.
- b. Homeowner selected Road Home Option 1 "Keep Our Home."
 (NOTE: Even if a homeowner received a zero award letter from Road Home, that homeowner may still be eligible for money through the OCD-DRU HMGP.)
- c. Homeowner still owns the home that was eligible for *Road Home* benefits or has acquired the home along with an assignment of Road Home rights. (NOTE: Assignment of Rights is only applicable to Elevation or IMM activities.)
- d. The structure is located in a FEMA designated ABFE area or the mitigation activity is deemed cost beneficial according to FEMA guidelines.
- e. Be cleared by FEMA.
- f. Homeowner agrees to comply with all HMGP guidelines as set forth by FEMA, GOHSEP and OCD.

SECTION 4: VPA STATEMENT OF COMPLIANCE
This Agreement of Voluntary Participation is made on 4-5-10 (date). I/We am/are the owner of the following property, eligible for Road Home assistance and damaged by Hurricane Katrina and/or Rita at the following municipal address: 3
 I/We currently plan to participate in the OCD-DRU HMGP Program. I/We understand the following concerning participation in OCD-DRU HMGP Program: The program is voluntary in nature; I/We are under no obligation to participate; I/We may drop out of the program at any time before receiving an award; The program reimburses cost of mitigation measures, homeowner must complete measures in accordance with program guidelines and request reimbursement from OCD-DRU's HMGP; Due to limited funding, IMM will be serviced on a "first come, first serve" basis until all funding is exhausted.
I/We understand that before cost will be reimbursed that an OCD-DRU HMGP Covenant must be signed, which requires the property owner to obtain and maintain flood insurance. The OCD-DRU HMGP will be recorded with Conveyance Records in the parish where the property is located.
I/We understand that property inspections are required for processing through the OCD-DRU HMGP and grant the program permission to take the necessary photos of my structure.
 Property owner has been notified that the following policy, listed in the June 2006 Pilot Reconstruction Guidance Section 2.3.7, has been rescinded by FEMA effective December 11, 2009: "Pilot Reconstruction activities must result only in an approximation of the original square footage of the structure, and that the square footage of the resulting structure shall be no more than 10 percent greater than that of the original structure." Property owner has been notified that the maximum award amount is \$100,000, less duplication of benefits. Property owner confirms that the information described in the preceding paragraphs has been explained and the information is understood:
Applicant or Co-Applicant NAME Applicant or Co-Applicant NAME Applicant or Co-Applicant SIGNATURE Date
Applicant or Co-Applicant NAME Applicant or Co-Applicant SIGNATURE Date
Are you signing as an agent with Power of Attorney (POA) for an applicant? YES NO If signing as agent with Power of Attorney:
Agent NAME (person with POA) Agent SIGNATURE Date
For official use only. ELISHA POWELL 06HH196131

VPA 03 30 2010

Page 2

GASB 34 and 35

Help Desk

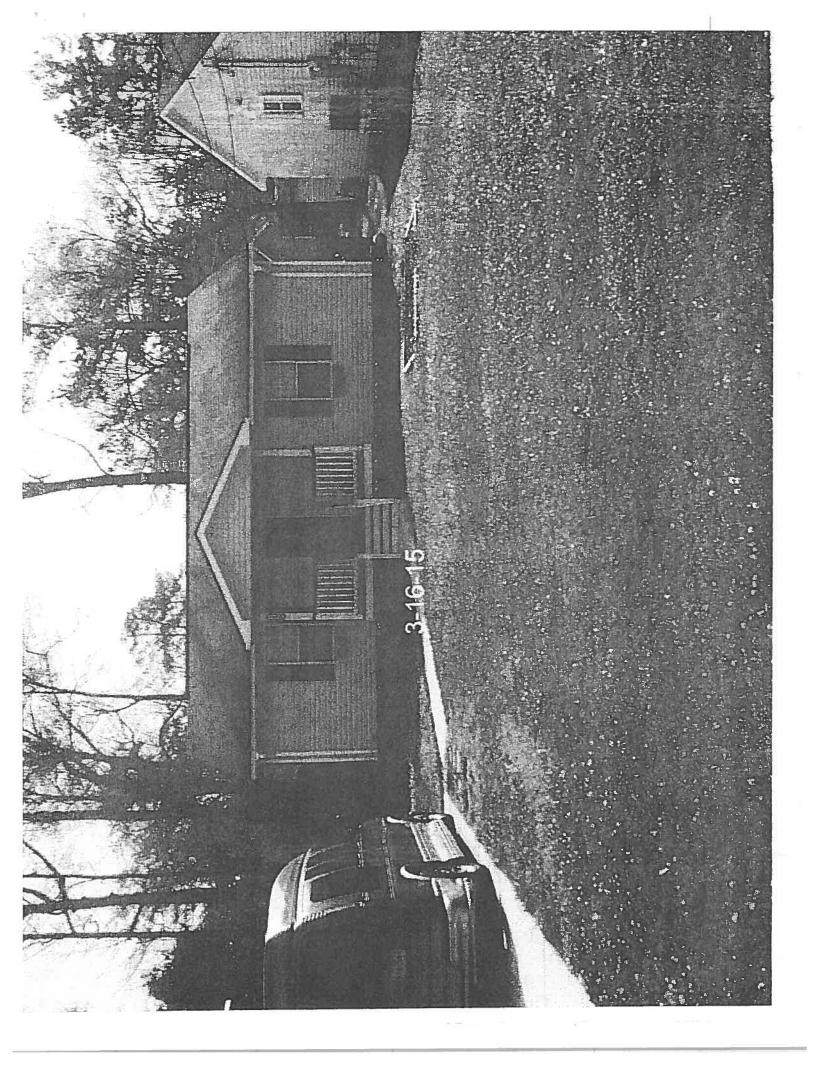
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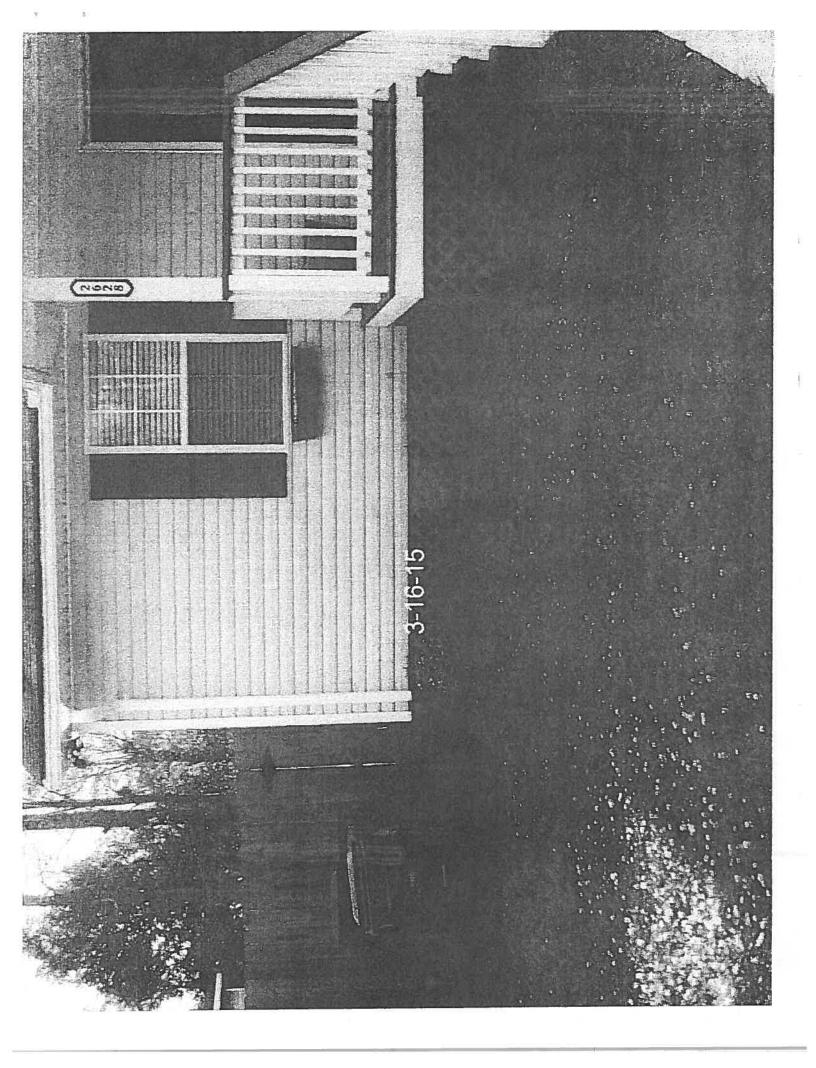
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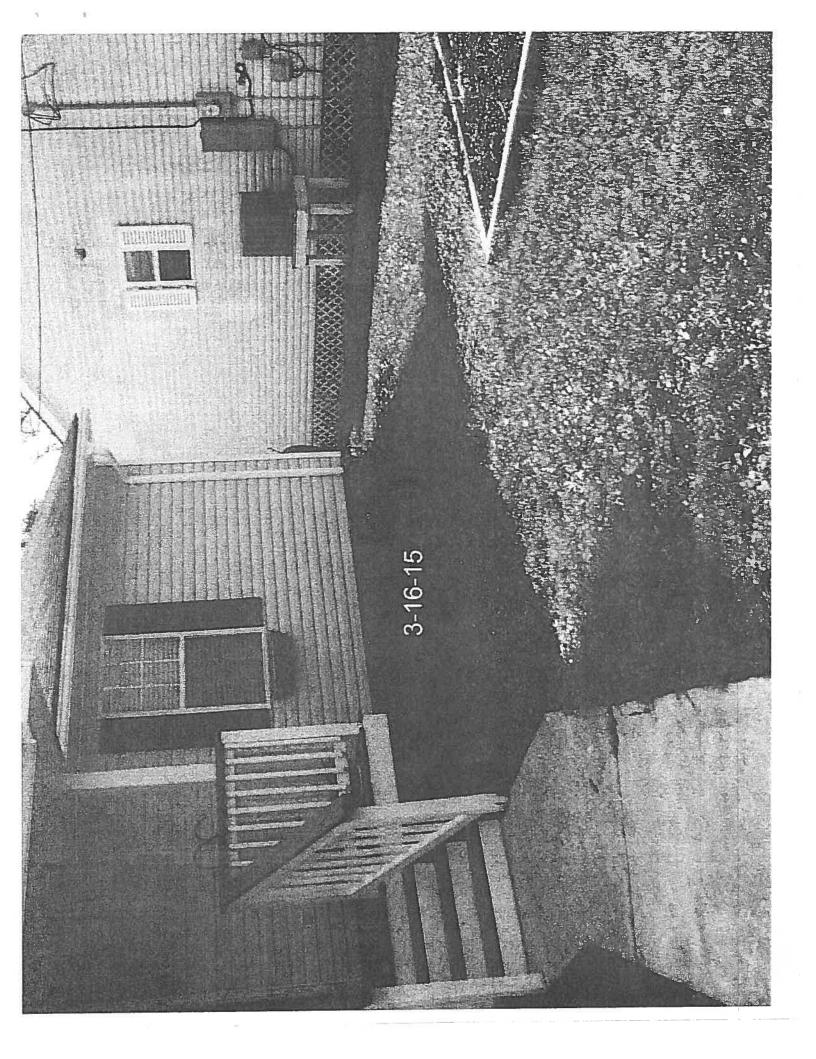
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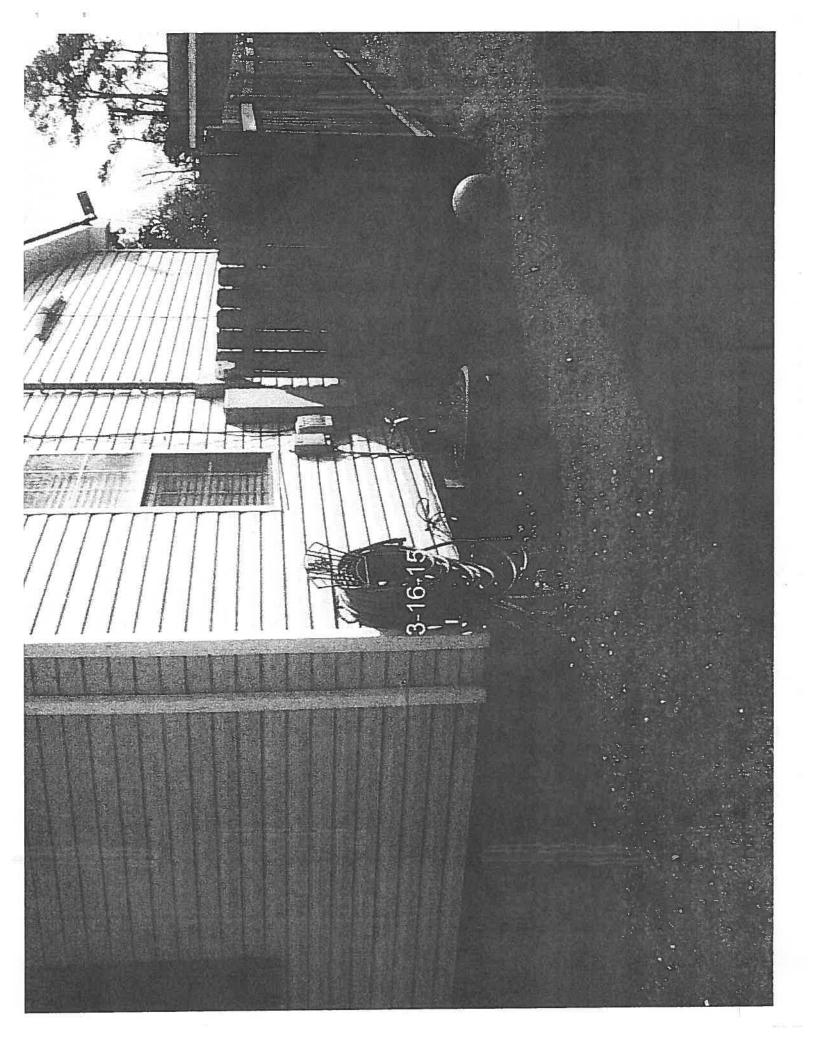
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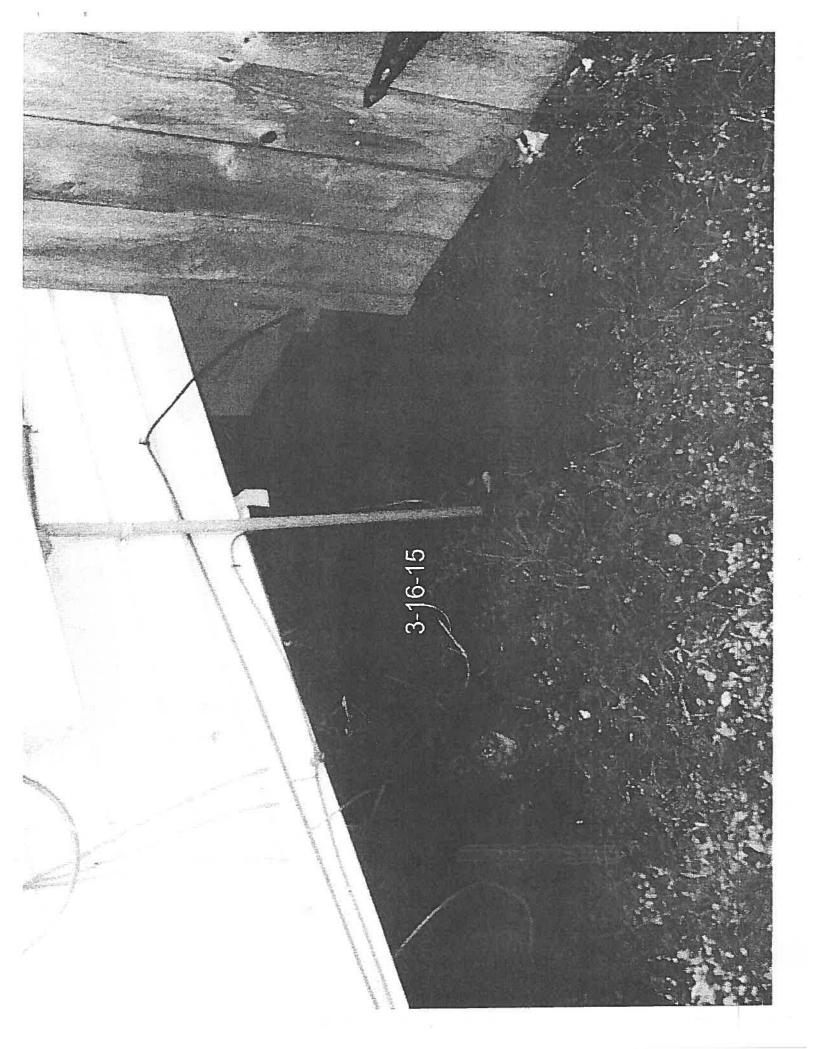


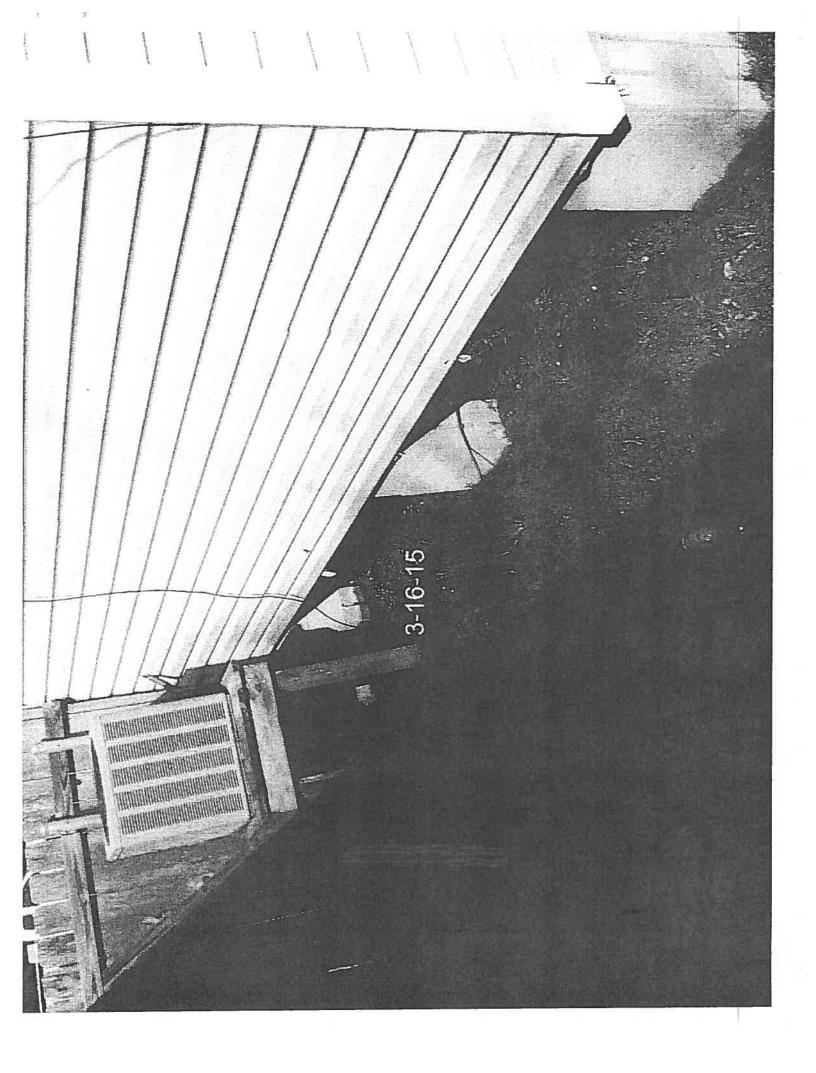


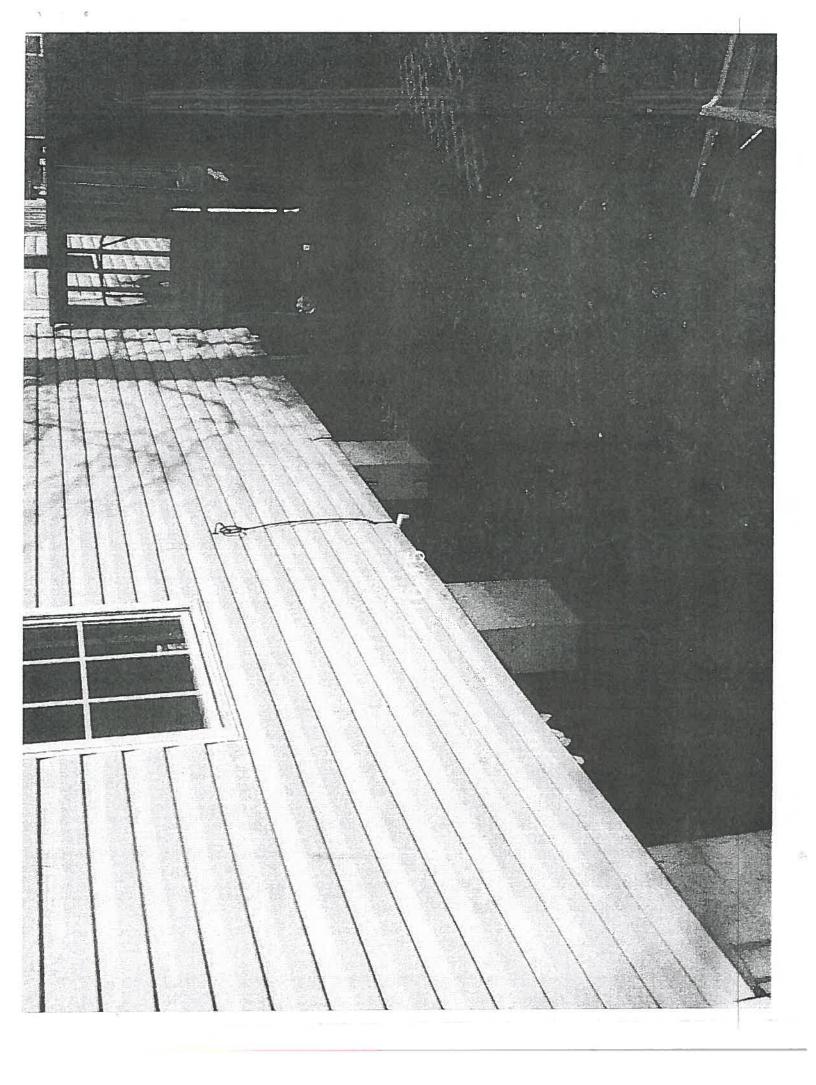


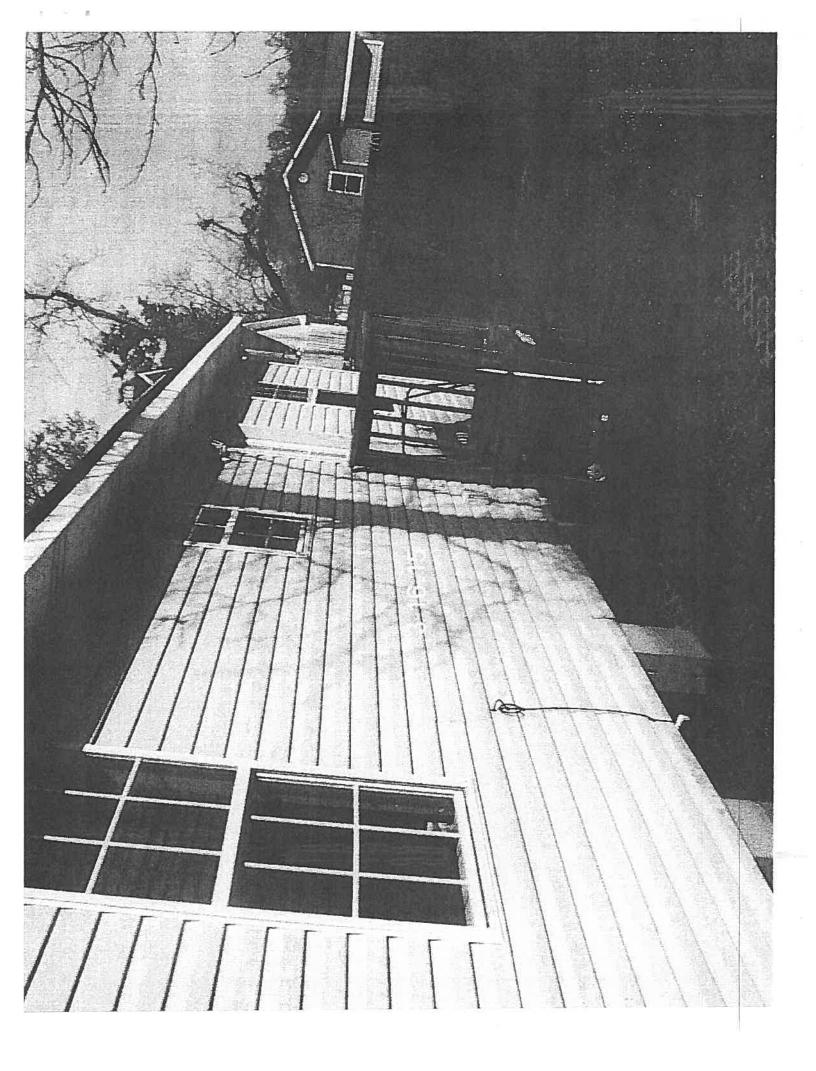


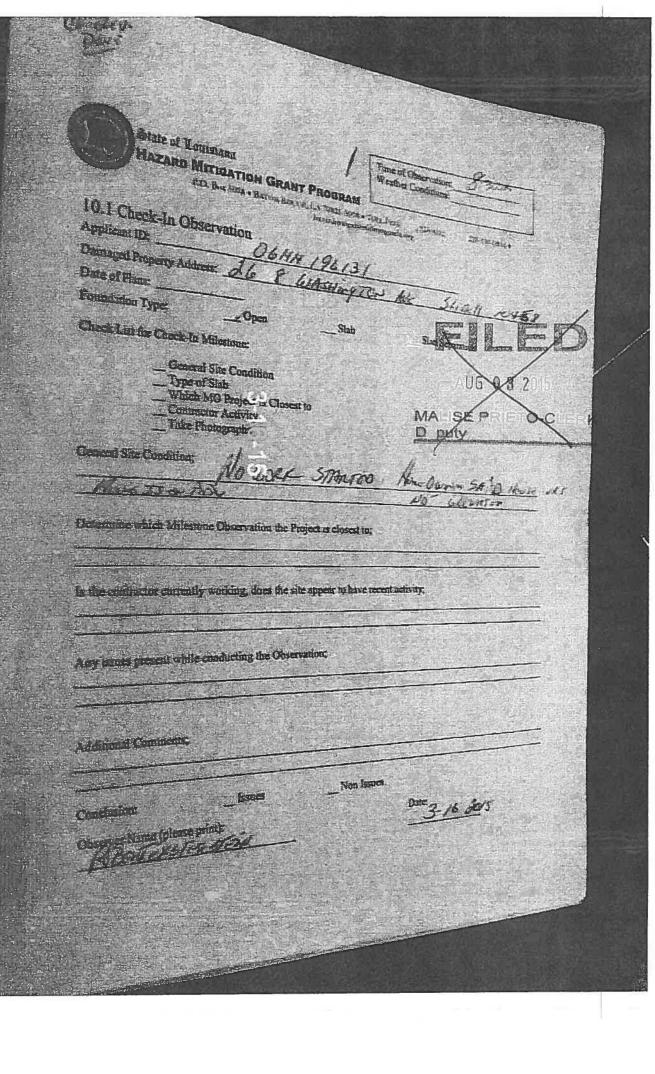














State of Louisiana

HAZARD MITIGATION GRANT PROGRAM

P.O. Box 5098 • BATON ROUGE, LA 70821-5098 • TOLL FREE (877) 824-8312 • FAX 225-330-0846 • hazardmitigation@mitigatela.org

2015-13154 A

«Date»

«App_First_Name» «App_Last_Name»
«Mailing_Address»
«Mailing_City», «Mailing_State» «Mailing_Zip»
Road Home ID: «App_ID»

SUBJECT: Final HMGP Collection Attempt

AUG 0 3 2015

MALISE PRIETO-CLERK

Deputy Saddle Success

Dear «App_First_Name» «App_Last_Name»:

The Hazard Mitigation Grant Program has previously informed you of the need to reconcile the grant funds that were disbursed to you for your specific mitigation activity. The Program has previously sent you correspondence regarding the need to reconcile these funds. Because you have not responded, either through the return of grant funds or by providing satisfactory proof of completion of the funded mitigation activity, you are hereby notified that the Hazard Mitigation Grant Program is required to pursue collection of all funds.

You should be aware that the Hazard Mitigation Grant Program will use all available resources to recoup the grant funds disbursed to you including, but not limited to, collection agency services, wage garnishments, civil action, and income tax return liens.

This is the last correspondence you will receive from the Program in an attempt to collect these funds. Your file will then be referred to the appropriate agencies for collection efforts as well as review for potential criminal violations. All future correspondence will be directly from the appropriate collection agency.

A table has been attached describing the grant funds received and the related activity for those funds.

You may stop the above actions by immediately contacting the Hazard Mitigation Grant Program at (504) 284-4020 to make acceptable repayment arrangements. Once your file has been referred for collection, your ability to reconcile the funds directly with the Program will end.

Respectfully,

Craig P. Taffaro, Jr.

Director, Hazard Mitigation Grant Program

and Recovery Coordination

Enclosure

OCD-DRU HMGP is a federally-funded program. Providing false or misleading information in an attempt to fraudulently obtain HMGP funds is a federal violation and will be prosecuted to the full extent of the law. Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. Because the HMGP program is a federally funded program, applicants are subject to Title 18, Section 1001 of the U.S. Code.

The Office of Community Development Disaster Recovery Unit does not discriminate on the basis of race, color, national origin, sex, age, religion or disability, and provides, upon request, reasonable accommodation, including auxiliary sids and services, to afford an individual with a disability an equal opportunity to participate in all services, programs and activities. Any paneous assistance should contact a Call Center Specialist, at (677) 824-8312 at least five business days prior to any scheduled meeting. The TDD number for the hearing impactional information regarding the use of the Louisiana Relay service can be found at the following link: http://www.hamiltonrelay.com/states/la_howto.htm.

AN EQUAL OPPORTUNITY EMPLOYER



State of Louisiana

HAZARD MITIGATION GRANT PROGRAM

P.O. Box 5098 • BATON ROUGE, LA 70821-5098 • TOLL FREE (877) 824-8312 • FAX 225-330-0846 • hazardmitigation@mitigatela.org

Our review has determined that the following apply to your «Grant_Type» grant(s):

HMGP Grant	Funds Received	Adjusted HM	IGP Values
Elevation Grant	«Elevation Gross Paid»	Elevation Grant	«Elevation_Adjusted»
Individual Mitigation Measures (IMM)	«IMM_Gross_Paid»	Individual Mitigation Measures (IMM)	«IMM_Adjusted»
Reconstruction Grant	«Recon Gross Paid»	Reconstruction Grant	«Recon_Adjusted»
Total HMGP Funds Received	«Gross Paid»	Total Hazard Mitigation Benefit	«Net_Amount»

Based on the calculations above, our records indicate that the overpayment of your Hazard Mitigation Grant «App_ID» is «Net_Amount».

confirmed by: Saye Fit

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	Mailing Zip	Mailing State	Mailing City	Mailing Address	App Last Name	App First Name	App ID

70458	A STATE OF THE PROPERTY OF THE	SLIDELL	2628 WASHINGTON AVE	POWELL	ELLISHA	06HH196131
70094	LA Proposition of the Propositio	BRIDGECITY	144 THIRD ST	PORTER	FREEMAN	06HH134388
70073	LA	MARRERO	PO BOX 1661	PIERCE-FAGGIN	LINDA	06HH058937
70127	LA	New Orleans	4934 Schindler Dr	PIERCE	TAMARA	06HH004615
70128	A J	New Orleans	11250 S. Parkwood Court	PICOT	ANTHONY	06HH055125
70119	LA	New Orleans	3330 Desaix Blvd.	PETERS	GENEVA	06HH106097
70058 7495	A CALLER OF THE PROPERTY OF TH	HARVEY	1561 MAPLEWOOD Dr.	PERRY	JOANN	06HH040804
70128	A	NEW ORLEANS	160 MARY JANE LN	PERRAULT-SIMMONS	MARY	06HH105427
70129	A Principles of the desire of	NEW ORLEANS	7435 WAYFARER ST	PENN	NHOL	06HH047641
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70119	LA	NEW ORLEANS	218 S. Dorgenois St	MIRALDA	MARCO	06HH135831
70511	and speed from the collection of the Vision California Visigiana, or	Abbeville	PO BOX 1313	MCMELLON	DELORES	06HH056047
70179		New Orleans	PO Box 792048	MCKINLEY	YOV	06HH123099
70123	LA	Harahan	404 OAK AVE	MCGUIRE	MICHAEL	06HH171799
70129	A TA	New Orleans New Orleans	13504 Trappers Court	MCGILL-BAILEY	VERONICA	06HH005664
70131	A	NEW ORLEANS	3701 HERALD ST	MCGHEE	PATRICE	06HH119396
70127	A	NEW ORLEANS	9944 GRANT STREET	MCCLAIN	DEBRA	06HH023869
70092	LA	VIOLET	2401 ST PAUL CT	MAURICE	DONNATTE	06HH039280
70122	LA	new orleans	6335 painters st	MASSEY	GERALDLYN	06HH042364
70058	LA	Harvey	2012 S. VILLIAGE GREEN ST	MARTIN	PRENTISS	06HH133665
70114	IA	NEW ORLEANS	1640 BEHRMAN AVE	MARTIN	ADRIAN	06HH075074
70117		NEW ORLEANS	1738 BARTHOLOMEW ST	MARTIN	DEBORAH	06HH069141
70358	A	Grand Isle	P.O. Box 5	MAGRI	IRVIN	06HH212052



State of Louisiana

HAZARD MITIGATION GRANT PROGRAM

2021 LAKESHORE DRIVE, SUITE 100, NEW ORLEANS, LA 70122 • PHONE: 504-284-4020

2015-13154A

April 13, 2015

06HH196131 ELLISHA POWELL 2628 WASHINGTON AVENUE SLIDELL LA 70458

AUG 0 3 2015

MALISE PRIETO-CLERK Deputy Statute Supular

Re: Collection of Outstanding Debt in the Amount of \$16,894.50

Dear ELLISHA POWELL:

This letter is pursuant to your agreement to voluntarily participate in the State of Louisiana's Hazard Mitigation Grant Program ("HMGP") and to comply with all HMGP and Federal Emergency Management Agency ("FEMA") rules and guidelines, which includes the proper use of Federal grant funds for the mitigation of your home located at 2628 WASHINGTON AVENUE SLIDELL.

You have been notified on multiple occasions via demand letters about your debt owed to HMGP in the amount of \$16,894.50. However, you have continuously disregarded these notices. You have also been given the opportunity to execute a re-payment agreement which would allow you to satisfy your debt within an agreed upon timeframe and at an agreed monthly amount. However, as of this date, you have failed to and/or refused to execute a re-payment agreement.

If payments have been paid pursuant to a payment agreement, then you should immediately contact the Program to verify the amount currently owed to the Program.

Please know that litigation and/or prosecution will be instituted against you for the collection of your unresolved debt.

Sincerely,

La Koshia R. Roberts Attorney for HMGP

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EXHIBIT EXHIBIT

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	PS Forin 3800, August 2	The state of the s	The Party of the P	Sce Asyers	to instructions

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SENDER: COMPLETE THIS SE	CTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. Al item 4 if Restricted Delivery is Print your name and address on that we can return the card attach this card to the back of or on the front if space permits 1. Article Addressed to: Ellisha Perell 26 28 Washing kan Slidell, LA 700	so complete desired. on the reverse to you. the mailple of	If YES, enter delivery address below: No
2. Article Number (Transfer from service label)		SP Projectored Special Return Receipt for Merchandise Collect on Delivery 4. Restricted Delivery? (Extra Fee) Special
PS Form 3811, July 2013	Domestic P	Neturn Receipt